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DEPARTMENT OF COMMERCE

International Trade Administration

A-351-838, A-533-840, A-570-893, A-549-822, A-552-802

Certain Frozen Warmwater Shrimp from Brazil, India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Continuation of Antidumping Duty Orders (India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam) and Revocation of Antidumping Duty Order (Brazil)

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping (AD) duty orders on certain frozen warmwater shrimp (shrimp) from India, the People's Republic of China (the PRC), Thailand, and the Socialist Republic of Vietnam (Vietnam) would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty orders. In addition, as a result of the ITC's determination that revocation of the AD duty order on shrimp from Brazil is not likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department is revoking the AD order on shrimp from Brazil.

DATES: AD Revocation (Brazil): Effective April 29, 2016; AD Continuation (India, the PRC, Thailand, and Vietnam): Effective [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1280.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2005, the Department published the AD orders on shrimp from Brazil, India, the PRC, Thailand, and Vietnam.¹ On March 1, 2016, the Department initiated² and the ITC instituted³ five-year (“sunset”) reviews of the AD *Orders* on shrimp from Brazil, India, the PRC, Thailand, and Vietnam, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, the Department determined that revocation of the AD orders on shrimp from Brazil, India, the PRC, Thailand, and Vietnam would likely lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins of dumping likely to prevail were the orders revoked.⁴

On May 25, 2017, the ITC published its determinations, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the AD orders on shrimp from India, the PRC, Thailand, and Vietnam would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, but that revocation of the AD order on

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Brazil*, 70 FR 5143 (February 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India*, 70 FR 5147 (February 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the People’s Republic of China*, 70 FR 5149 (February 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005); and *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Thailand*, 70 FR 5145 (February 1, 2005) (collectively, *Orders*).

² See *Initiation of Five-Year (“Sunset”) Review*, 81 FR 10578 (March 1, 2016) (*Notice of Initiation*).

³ See *Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam Institution of five-year reviews*, 81 FR 10659 (March 1, 2016).

⁴ See *Certain Frozen Warmwater Shrimp From Brazil, India, the People’s Republic of China and Thailand: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 81 FR 44275 (July 7, 2016); see also *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of the Second Five-Year Sunset Review of the Antidumping Duty Order*, 81 FR 63469 (September 15, 2016); and *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the Second Five-Year Sunset Review of the Antidumping Duty Order*, 82 FR 8724 (January 30, 2017).

shrimp from Brazil would not be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.⁵

Scope of the Orders

The products covered by the *Orders* include certain frozen warmwater shrimp and prawns whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,⁶ deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the *Orders*, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

⁵ See *Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam; Determination*, 82 FR 24144 (May 25, 2017).

⁶ “Tails” in this context means the tail fan, which includes the telson and the uropods.

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of the *Orders*. In addition, food preparations, which are not “prepared meals,” that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of the orders.

Excluded from the *Orders* are: 1) breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); 2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; 3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); 7) certain dusted shrimp; and 8) certain battered shrimp. Dusted shrimp is a shrimp-based product: 1) that is produced from fresh (or thawed-from-frozen) and peeled shrimp; 2) to which a “dusting” layer of rice or wheat flour of at least 95 percent purity has been applied; 3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; 4) with the non-shrimp content of the end product constituting between four and 10 percent of the product’s total weight after being dusted, but prior to being frozen; and 5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by the *Orders* are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs

purposes only and are not dispositive, but rather the written description of the scope of the orders is dispositive.

Continuation of the AD Orders on Shrimp from India, the PRC, Thailand, and Vietnam

As a result of the determinations by the Department and the ITC that revocation of the AD orders on shrimp from India, the PRC, Thailand, and Vietnam would likely lead to a continuation or a recurrence of dumping and of material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the AD orders on Shrimp from India, the PRC, Thailand, and Vietnam. U.S. Customs and Border Protection (CBP) will continue to collect AD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the orders will be the date of publication in the *Federal Register* of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of these orders not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Revocation of the AD Order on Shrimp from Brazil

As a result of the determination by the ITC that revocation of the AD order on shrimp from Brazil would not be likely to lead to continuation or recurrence of material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department is revoking the AD order on shrimp from Brazil. Pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the effective date of revocation is April 29, 2016 (*i.e.*, the fifth anniversary

of the date of publication in the *Federal Register* of the notice of continuation of the antidumping duty orders).⁷

Cash Deposits and Assessment of Duties on Shrimp from Brazil

The Department will notify CBP, 15 days after publication of this notice, to terminate the suspension of liquidation and to discontinue the collection of cash deposits on entries of shrimp from Brazil, entered or withdrawn from warehouse, on or after April 29, 2016. The Department will further instruct CBP to refund with interest all cash deposits on unliquidated entries made on or after April 29, 2016. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and AD deposit requirements and assessments.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

⁷ See *Certain Frozen Warmwater Shrimp From Brazil, India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Continuation of Antidumping Duty Orders*, 76 FR 23972 (April 29, 2011).

These five-year (sunset) reviews and notice are in accordance with sections 751(c) and (d)(2), and 777(i) the Act, and 19 CFR 351.218(f)(4).

Dated: May 25, 2017

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

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